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SENATE

REPORT
99-499

INCLUDING CERTAIN LANDS WITHIN THE APOSTLE ISLANDS NATIONAL LAKESHORE IN THE STATE OF WISCONSIN

SEPTEMBER 27 (legislative day, SEPTEMBER 24), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 2182]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2182), to authorize the inclusion of certain additional lands within the Apostle Island National Lakeshore, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of this measure is to include Long Island within the boundary of the Apostle Islands National Lakeshore.

BACKGROUND AND NEED

H.R. 2182 amends the Act of September 26, 1970, which established the Apostle Islands National Lakeshore in Wisconsin, by revising the boundary to include the 250-acre Long Island. The bill and the Act would authorize the appropriations of such sums as may be necessary to acquire Long Island and includes a conforming amendment regarding the reserved use and occupancy of the lands added to the Lakeshore.

The Apostle Islands are rich in Indian history and the subsequent settlements of commercial fishermen, loggers, and miners. Long Island is the southern most island in this 22-island Apostle chain and comprises approximately 250 acres. It has several miles of sandy beach and low dunes, 94 species of vegetation and 27 species of shorebirds. Long Island is one of the last remaining habitats

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in the Great Lakes region of two seriously endangered birds species, the piping plover and the common tern. As part of the national lakeshore, the island would be managed so that these species, as well as many of the island's other shorebirds, would be protected. Long Island is also geologically significant, offering researchers a unique opportunity to study the processes which cause the creation of a barrier island.

The Coast Guard has jurisdiction over 2 acres around the island's two lighthouses, and the remaining acreage is owned by the Bureau of Land Management, Ashland County and private landowners.

Legislative History

H.R. 2182 passed the House of Representatives on December 14, 1985. Similar legislation was introduced on April 26, 1985, by Senator Proxmire (S. 1019). The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 1019 and H.R. 2182 on June 20, 1986.

At a business meeting on September 25, 1986, the Senate Committee on Energy and Natural Resources ordered H.R. 2182 favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on September 25, 1986, by unanimous voice vote of a quorum present recommends that the Senate pass H.R. 2182, as described herein.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 26, 1986.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 2182, an act to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore, as ordered reported by the Senate Committee on Energy and Natural Resources September 25, 1986.

H.R. 2182 would authorize the inclusion of a 270-acre island in Lake Superior, known as Long Island, within the Apostle Islands National Seashore in northern Wisconsin. The act authorizes such sums as may be necessary for acquisition of land on the island. Based on information from the National Park Service, CBO estimates that enactment of this legislation would result in land acquisition costs to the federal government of approximately $240,000 to be incurred in fiscal year 1987, assuming appropriation of the necessary funds.

Enactment of this legislation would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

ROSEMARY MARCUSS
(For Rudolph G. Penner, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2182. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2182, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of the Interior and the United States Coast Guard setting forth executive agency recommendations relating to H.R. 2182 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, July 11, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 2182, as passed by the House of Representatives, an act "To authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore."

We do not recommend the enactment of H.R. 2182 by the Senate. H.R. 2182 is similar to S. 1019, which we also did not recommend for enactment in our report of July 16, 1985.

H.R. 2182, which passed the House of Representatives on December 16, 1985, would amend the Act of September 26, 1970, which established the Apostle Islands National Lakeshore in Wisconsin, by revising the boundary to include the 200-acre island, Long Island. The House-passed bill would also transfer jurisdiction of all Federal property on the island to the Secretary of the Interior for purposes of the lakeshore, subject to the right of the Coast Guard to use a portion of the land and facilities for navigational aids. It would authorize further the appropriation of such sums as may be necessary to acquire Long Island.

Much of the island that would be authorized for addition to Apostle Islands National Lakeshore under this legislation is under the jurisdiction of the Coast Guard and is now protected by that

agency; the island is located a good distance from the other management units of the lakeshore and separated from the Apostles by Madeline Island, where a State park is located; and we have no estimate of the costs associated with development and management of the island.

Long Island was one of 21 islands in Lake Superior proposed for inclusion within an Apostle Islands National Lakeshore by this Department in 1965. At that time, Long Island was indicated as being 408 acres in size, with two privately-owned cabins on the property.

The Department's 1965 lakeshore proposal recommended three units: The Apostle Islands units, consisting of the 21 islands; the Red Cliff Unit, a 30-mile-long strip of highlands along the Lake Superior shore; and the Kakagon-Bad River Sloughs Unit, a long sand spit fronting on Lake Superior together with marshlands behind the sand spit. Long Island is actually a lakeward extension of this sand spit, although it was included in the islands unit.

Legislation was considered and passed by the Senate in the 90th and 91st Congresses to establish the lakeshore. A major consideration was the treatment of Indian trust lands within the boundaries. The proposed lakeshore would have included almost 11,000 acres of allotted and tribal land within the reservations of the Red Cliff Band and the Bad River Band of the Lake Superior Tribe of Chippewa Indians. Although provisions were recommended that would require Indian consent to acquisition of tribal or allotted lands, and would permit acquisition of replacement lands for addition to the reservations, the House Committee on Interior and Insular Affairs in the 91st Congress reported an amended bill that excluded all tribal and most allotted lands from the boundary. The Committee report cited the failure of the Indian bands to agree to the inclusion of tribal lands as the reason for excluding the Indian lands. Long Island was also deleted, and we assume it was excluded because this island was deemed to be a part of the management unit that included the Bad River Reservation on the mainland. Further, the island is separated by about 8 miles from the nearest island (Basswood) among the Apostles, now within the lakeshore. The Senate concurred in the House amendment, and the bill was signed into law without Long Island in the boundary.

We have no estimate of the cost of operation or of any developments that may be needed to accommodate public use of the island and stabilization of the lighthouse. We estimate that the cost of the 103.85 acres of private land, including two seasonal residences, would be appropriately $240,000. Because there would be this acquisition cost and some development and operations cost, because recreation use of Apostle Islands is relatively low (117,353 in 1985), and because there are no imperative reasons requiring the acquisition of Long Island, we believe these costs are unwarranted. Moreover it is important that we not add relatively low priority areas at a time when strong actions are necessary to reduce the budget deficit.

We understand that the Coast Guard has jurisdiction over approximately 137 acres of Federal land on the island, and the remainder is privately owned. We have been told that the Coast Guard has some concerns regarding a transfer of jurisdiction to the National Park Service.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH,
Deputy Assistant Secretary.

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, DC, August 14, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Transportation on S. 1019 and H.R. 2182, bills "To authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore."

H.R. 2182 passed the House of Representatives on December 16, 1985. It provides for the Coast Guard to retain the right to utilize a portion of any federal property located within the boundaries of the lakeshore for navigational aids so long as may be required. S. 1019 does not contain a similar provision.

On July 23, 1985, the Commandant of the Coast Guard, Admiral James S. Gracey, provided a clarification to concerns which were raised by the House Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs regarding transfer of jurisdiction. A copy of that response is attached for your information. The exemption language contained in H.R. 2182 (as passed by the House), granting the Coast Guard a permanent right-of-way for operation and maintenance of its aids to navigation, satisfies the Coast Guard's requirements as specified by Admiral Gracey. Amendment of S. 1019 to contain the same exemption language would be desirable.

The office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this report for the consideration of the Committee on Energy and Natural Resources.

Sincerely,

JIM J. MARQUEZ,
General Counsel.

Enclosure.

U.S. COAST GUARD,
Washington, DC, July 23, 1985.

Hon. BRUCE F. VENTO,
Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. VENTO: This is in reponse to your letter dated June 13, 1985, concerning H.R. 2182, a bill "To authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore."

Your letter stated the Subcommittee's understanding that the Coast Guard has custody of approximately 137 acres of Long Island (Wisconsin) on which it operates two automated lighthouses, and the Coast Guard's reported concerns regarding transfer of jurisdiction over the Federal land on the island to the National Park Service. You requested clarification of those concerns.

Coast Guard property interests at Long Island, Wisconsin, include a 1.8± acre parcel surrounding Chequamegon Point Light, and a .75± acre parcel surrounding La Pointe Light, with a permanent right-of-way for access and power and telephone lines. The balance of the acreage in question was relinquished to the custody of the Bureau of Land Management (BLM) by Notice of Intent to Relinquish dated February 2, 1967, which was accepted by BLM in a letter dated April 14, 1967. The present status of that portion of the property relinquished to the Bureau of Land Management is unknown, but persumably remains under the Bureau's jurisdiction.

The Coast Guard requires those remaining property interests described above to meet its statutory obligations regarding the operation and maintenance of aids to navigation and public protection from the operation of fog signals.

This information is intended as a factual reponse to your request for information regarding the Coast Guard's property interests and does not constitute a commitment with respect to the merits of the proposed legislation by the Administration, the Department of Transportation, or the Coast Guard.

Thank you for the opportunity to comment on this matter.

Sincerely,

J.S. GRACEY,
Admiral, U.S. Coast Guard Commandant.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act, H.R. 2182, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 91-424—SEPTEMBER 26, 1970

(84 Stat. 880)

AN ACT To provide for the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, and for other purposes. (84 Stat. 880)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to conserve and develop for the benefit, inspiration, education, recreational use, and enjoyment of the public certain significant islands and shoreline of the United States and their related geographic, scenic, and scientific values, there is hereby established the Apostle Islands National Lakeshore (hereinafter referred as the "lakeshore") in Ashland and Bayfield Counties, Wisconsin, consisting of *(a) In general.*—the area generally depicted on the map entitled "Apostle Islands National Lakeshore", numbered NL-AI-91,000,

sheets 1 and 2, and dated June [1970] *1970; and (b) Long Island Addition.—Approximately 200 acres of land at the mouth of Chequamegon Bay known as "Long Island", as depicted on the map numbered NL-AI-91,001 and dated December, 1985.* The [map] *maps* shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior.

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SEC. 3. The Secretary may acquire within the boundaries of the lakeshore lands and interests therein by donation, purchase with donated or appropriated funds, or exchange, but lands and interests in lands owned by the State of Wisconsin may be acquired only by donation. [Notwithstanding any other provision of law, any Federal property located within the boundaries of the lakeshore may, with the concurrence of the agency having custody thereof, be transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the lakeshore.] *Notwithstanding any other provision of law, any Federal property located within the boundaries of the lakeshore is hereby transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the lakeshore: Except, that the United States Coast Guard may retain a right to utilize a portion of such land and facilities for use as navigational aids so long as may be required.*

SEC. 4. (a) With the exception of not more than eighty acres of land to be designated within the lakeshore boundaries by the Secretary as an administrative site, visitor center, and related facilities, as soon as practicable, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, whichever is the later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(b) A right of use and occupancy retained pursuant to this section may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential or for agricultural purposes, and upon tender to the holder of a right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(c) The term "improved property", as used in this section, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1967, *or before January 1, 1985 for those lands referred to in section 1(b)* (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be

reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

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SEC. 8. There are authorized to be appointed not more than $4,250,000 for the acquisition of lands and interests in lands and not more than $5,000,000 for the development of the Apostle Islands National Lakeshore. *Effective October 1, 1986, there are authorized to be appropriated such additional sums as may be necessary for the acquisition of the lands described in section 1(b).*

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